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IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P.NO. 2516/2002

PETITIONER : Smt. Mahjabeen Ishahaque
Aged about 47 years,
W/O Mohammad Ishahaque,
Lecturer (Biology)
M.L.B.G.H.S.School, Bilaspur
(C.G.)

VERSUS

RESPONDENTS :

1) State of C.G.
Through : Secretary
Secretriate, State Education
Department, Ministry, Dau
Kalyan Singh Building Raipur
(C.G.)

2) Director, Public Instruction
Pention Bada Raipur (C.G.)

3) District Education Officer
Bilaspur District Distt. -
Bilaspur (C.G.)

P.R. No. 24/5/02
Presented by Shri K.L. Lerk Chandani
dated 30/5/02

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(30)

आदेश पत्रक

मामला क्रमांक W.P. No. 2518/2002 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

27/01/2003

Shri Y.C. Sharma, counsel for the petitioner.

Shri Ranbir Singh, GA for the State.

Heard.

The challenge in this writ petition is to the order dated 16/10/2002 issued by the respondent no.3- District Education Officer, Bilaspur, whereby the petitioner who was working as a Lecturer of Zoology at Mahalaxmi Bai Girls Higher Secondary School, Bilaspur, has been transferred to Government Higher Secondary School, Seepath.

To begin with, it may be stated that transfer is an incidence of service and a person who holds a transferable post cannot object to his transfer, as it is within the jurisdiction of the employer to determine as to where a particular employee should or should not be posted. However, there may be some cases of transfer which may be examined by the Court and these would normally be the cases where an employee has been subjected to frequent transfers or the transfer is by way of harassment or to accommodate a particular person by bringing him back to the place from where that person was transferred and sending out the incumbent who had joined that particular place of transfer of the previous incumbent. Interference may be justified in cases of malafide or infraction of any proposed norms or principles. Where career prospects remain unaffected and no detriment is caused challenge to transfer ought not to be entertained. Thus the challenge to an order of transfer in the

[पीछे देखिये

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(31)

आदेश पत्रक

मामला क्रमांक W.P 2578/02 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

opinion of the Court, is to be considered in the above background.

According to the petitioner, the order is liable to be quashed and it violates the transfer policy. In reply, it is stated by State counsel that the order which has been issued to the petitioner is under the policy of Yuktiyuktkaran, which is applicable to petitioner. It is stated by learned counsel that the petitioner has been working since 02/07/1991 in Mahalaxmi Bai Girls Higher Secondary School, Bilaspur, and now has been transferred to Government Higher Secondary School Seepath. It is also stated that the petitioner has filed a representation dated 09-09-2002 (Annexure P-6) against the order of transfer before the concerned authorities and as the same has not been considered and decided she has approached this Court for relief.

In view of the above and since a representation has been filed which is pending consideration, the Court is of the opinion that this petition be disposed of by directing respondent No.2 to consider and dispose of the representation dated 09-09-2002 (Annexure P-6) on its own merits expeditiously. It is made clear that the Court is not expressing any opinion on the merits of the petitioner's contention and a representation will have to be decided by the authorities on its own merits. The authorities shall also determine as to whether the said Yuktiyuktkaran is applicable to the petitioner. Pending consideration of the representation, it will be open to the authorities to consider staying the operation of the impugned order. However, the

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(82)

आदेश पत्रक

मामला क्रमांक WP 2518/02 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Authority is free to take a decision as to whether the order may be deferred till the end of the academic session. If so advised, the petitioner may submit a fresh representation within seven days from today. With the above observations and directions, the petition stands disposed of. Consequently M.W.P. No.1598/2002 & I.A. No.7998/2002 for urgent hearing also stand disposed of. Certified copy as per Rules. **Sd/-** **P.C.Naik** **Judge**	

Raj

Advt

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